



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[USCG-2013-0753]

RIN 1625-AA08

Special Local Regulation; Tennessee River, Miles 255.0 to 256.5, Florence, AL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing a temporary special local regulation for the waters of the Tennessee River beginning at mile marker 255.0 and ending at mile marker 256.5, extending bank to bank. This zone is necessary to protect participants of the Shoals Dragonboat Race. Entry into this area is prohibited unless specifically authorized by the Captain of the Port (COTP) Ohio Valley or designated representative.

DATES: This rule is effective and enforceable from 8:00 a.m. to 5:00 p.m. October 19, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2013-0753]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the

"SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call Petty Officer James Alter, Marine Safety Detachment Nashville, at (615) 736-5421 or email at james.r.alter@uscg.mil. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

BNM	Broadcast Notices to Mariners
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

#### A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity

to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. The Coast Guard received notice on August 5, 2013 that the Shoals Dragonboat Race is planned to take place on October 19, 2013 on the Tennessee River between miles 255.0 to 256.5. Publishing a NPRM for this regulation is contrary to the public interest. A special local regulation is necessary to protect the participants and control vessel traffic during this rowing event on the Tennessee River, and publishing an NPRM would unnecessarily delay the regulation's effective date. Further, the Coast Guard will provide notice of this regulation to the public through broadcast advisories, as well as the presence of on-scene Coast Guard personnel to patrol the regulated area.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Providing a full 30 days notice and delaying the effective date for this special local regulation is contrary to the public interest because immediate action is necessary to protect event participants from the possible marine hazards present during this rowing

event.

#### B. Basis and Purpose

The Shoals Dragonboat Race takes place on the Tennessee River from mile markers 255.0 to 256.5, and will feature approximately 900 participants. This crowding of the waterway presents safety hazards to the participants, as well as to spectators and other vessels in the area. The Coast Guard therefore determined that a temporary special local regulation is needed to protect the safety of these waterway users. The legal basis and authorities for this rulemaking establishing a special local regulation are found in 33 U.S.C. 1233, which authorize the Coast Guard to establish and define special local regulations.

#### C. Discussion of the Final Rule

The COTP Ohio Valley is establishing a special local regulation for the waters of the Tennessee River, beginning at mile marker 255.0 and ending at 256.5, during the Shoals Dragonboat Race. During this event, vessels shall not enter into, depart from, or move within the area of this special local regulation without permission from the COTP Ohio Valley or his authorized representative. Persons or vessels requiring entry into or passage through the special local regulation must request permission from the COTP Ohio Valley, or a designated representative. They may be contacted on VHF-FM Channel 13 or 16, or through Coast Guard

Sector Ohio Valley at 1-800-253-7465. This rule is effective from 8:00 a.m. to 5:00 p.m. October 19, 2013. The COTP Ohio Valley will inform the public through broadcast notices to mariners of the enforcement period for the special local regulation as well as any changes in the planned schedule.

#### D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

##### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under that Order.

This special local regulation restricts transit on the Tennessee River from mile marker 255.0 through 256.5 and covers a period of nine hours, from 8:00 a.m. to 5:00 p.m. on October 19, 2013. Due to its short duration and limited scope, it does not pose a significant regulatory impact.

Broadcast Notices to Mariners (BNM) will also inform the community of this special local regulation so that they may plan accordingly for this short restriction on transit. Vessel traffic may request permission from the COTP Ohio Valley or a designated representative to enter the restricted area.

## 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit mile marker 255.0 to 256.5 on the Tennessee River, from 8:00 a.m. to 5:00 p.m. on October 19, 2013. The special local regulation will not have a significant economic impact on a substantial number of small entities because this rule will be in effect for a short

period of time. BNMs will also inform the community of this special local regulation so that they may plan accordingly for this short restriction on transit. Vessel traffic may request permission from the COTP Ohio Valley or a designated representative to enter the restricted area.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure



by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### 11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a

substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a temporary special local regulation to protect the participants in the Shoals Dragonboat Race on the Tennessee River from mile markers 255.0 to 256.5 for a nine hour period on one day. This rule is categorically excluded,

under figure 2-1, paragraph (34)(h), of the Instruction. An environmental analysis was performed during the marine event permit process for the rowing event and a checklist and a categorical exclusion determination are not required for this special local regulation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

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For the reasons discussed in the preamble, the U. S. Coast Guard amends 33 CFR Part 100 as follows:

PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233

2. A new temporary § 100.T08-0753 is added to read as follows:

§ 100.T08-0753 Special Local Regulation; Tennessee River, Miles 255.0 to 256.5, Florence, AL.

(a) Location. The following area is a special local regulation: All waters of the Tennessee River, beginning at mile marker 255.0 and ending at mile marker 256.5.

(b) Effective date. This section is effective and enforceable from 8:00 a.m. to 5:00 p.m. on October 19, 2013.

(c) Regulations. (1) In accordance with the general regulations in §100.35 of this part, entry into this area is prohibited unless authorized by the Captain of the Port Ohio Valley or a designated representative.

(2) Persons or vessels requiring entry into or passage through the area must request permission from the Captain of the Port Ohio Valley or a designated representative. U. S. Coast Guard Sector Ohio Valley may be contacted on VHF Channel 13 or 16, or at 1-800-253-7465.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Ohio Valley and designated U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(d) Informational broadcasts. The Captain of the Port Ohio Valley or a designated representative will inform the public through broadcast notice to mariners when the special local regulation has been established and if there are changes to the enforcement period for this special local regulation.

Dated: September 20, 2013.

R. V. Timme,  
Captain, U.S. Coast Guard,  
Captain of the Port Ohio Valley.

[FR Doc. 2013-24473 Filed 10/16/2013 at 8:45 am; Publication Date: 10/17/2013]